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Date: October 6, 2005

To: Examiner Hau H. Nguyen, GAU 2676
United States Patent and Trademark Office

Facsimile No.: 703-872-9306

US Serial No. 10/053,431

Filing Date January 17, 2002

Attorney Docket No. UNIV0123

From: Sabrina K. MacIntyre, Registration No. 56,912
Facsimile No. (425) 646-6314

MESSAGE:

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1. Facsimile Cover Page (1pg).
2. Status Inquiry Due to a Prosecution History Inconsistency and Request for Withdrawal of Office Action (4pp).

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CUSTOMER NUMBER 25268

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Chris Yoochang Chung et al. Attorney Docket No: UNIV0123
Serial No: 10/053,431 Group Art Unit: 2676
Filed: January 17, 2002 Examiner: Nguyen, Hau H.
Title: PROGRAMMABLE 3D GRAPHICS PIPELINE FOR MULTIMEDIA APPLICATIONS

STATUS INQUIRY DUE TO A PROSECUTION HISTORY INCONSISTENCY
AND REQUEST FOR WITHDRAWAL OF OFFICE ACTION

Bellevue, Washington 98004

October 6, 2005

TO THE DIRECTOR OF THE PATENT AND TRADEMARK OFFICE:

The above-identified application was abandoned on January 4, 2005. On October 6, 2005, applicants submitted by facsimile a Petition For Revival of an Application For Patent Abandoned Unintentionally under 37 CFR § 1.137(b). Currently, the application remains abandoned. The Final Office Action mailed on September 22, 2005 should not have been issued in an abandoned application and should be withdrawn. Therefore, applicants request that the Examiner withdraw the Final Office Action dated September 22, 2005. The following Remarks set forth the circumstances that have led to the current abandoned status of the application.

Should the Petition to Revive submitted on October 6, 2005 be granted, applicants respectfully request that the Examiner then issue a further Office Action (e.g., reissue the Office Action dated September 22, 2005) so that prosecution of the above-identified application can continue.

REMARKSSTATUS INQUIRY DUE TO A PROSECUTION HISTORY INCONSISTENCY**Procedural History**

Responsive to the Final Office Action dated September 03, 2004, in a timely manner, applicants mailed an Amendment Transmittal Letter/Request for Extension of Time, and an Amendment & Request for Reconsideration (dated December 6, 2004). The Amendment Transmittal Letter also included a Petition Transmittal Letter. A Petition for Withdrawal of a Restriction Requirement was also submitted at that time, with a check (including the one-month, small entity extension of time fee for response to a Final Office Action and the petition fee). All of these documents and enclosures were mailed on December 06, 2004, via First Class Mail, with a Certificate of Mailing.

The first indication that applicants received indicating that the Patent Office did not enter the timely filed Amendment & Request for Reconsideration into the file for this case was on June 16, 2005, when an Advisory Action, dated June 09, 2005, was received by applicants' attorney. The Advisory Action included an indication that the reply received by the Patent Office on December 15, 2004 failed to place the above-identified application in condition for allowance, and noted that the proposed amendments would not be entered because they raise new issues that would require further consideration and/or search and that they present additional claims without canceling a corresponding number of finally rejected claims. The Examiner also noted that the period for reply expired three months from the mailing date of the final rejection.

Thus, the above-identified application became abandoned for failure to file a further response to the Final Office Action dated September 3, 2004, that placed the above-identified application in condition for allowance. The abandonment date of the above-identified application is January 4, 2005 (i.e., the day after the expiration date of the period set for response to the Final Office Action plus the one-month extension of time previously requested and paid for with the response filed December 06, 2004).

On June 24, 2005, applicants mailed a Petition to Revive an Unavoidably Abandoned Application under 37 CFR § 1.137(a) (including Request for Extension of Time for the additional available two months). Also included with this petition was a Request for Continued Examination (RCE) Transmittal Letter, a Preliminary Amendment, and a check for the total

1 amount of the RCE filing fee, the additional Extension of Time fee, and the unavoidable
2 abandonment petition fee.

3 Subsequently, applicants' attorney received a Decision on Petition (dated
4 August 19, 2005) from Senior Petitions Attorney Christina Tartera Donnell at the Patent Office
5 indicating that the Petition to Revive an Unavoidably Abandoned Application under 37 CFR §
6 1.137(a) was denied. Accordingly, the subject application remains abandoned. However,
7 applicants' attorney received a Final Office Action dated September 22, 2005, that was
8 responsive to the Preliminary Amendment filed in June 2005 with the RCE and the Petition to
9 Revive. Accordingly, there is clearly an inconsistency in the prosecution history of the above-
10 identified application, since the Final Office Action dated September 22, 2005 should not have
11 been issued in an application that was then (and remains) deemed to be abandoned by the Patent
12 Office.

13 Applicants' attorney spoke with Attorney Donnell on September 30, 2005, seeking
14 suggestions about how to proceed, because Examiner Nguyen has inappropriately continued
15 prosecution by issuing the Final Office Action dated September 22, 2005 in the abandoned
16 application. Attorney Donnell emphasized that the above-identified application is abandoned by
17 statute, and prosecution cannot continue until the case is reinstated after a Petition to Revive an
18 Unintentionally Abandoned Application is granted. She indicated that she had spoken with her
19 supervisor who would telephone Examiner Nguyen and ask that the Examiner withdraw the Final
20 Office Action. She also suggested that applicants' attorney send a Status Inquiry to the Examiner,
21 stating the inconsistency that has arisen since the above-identified application was abandoned by
22 statute and ensuring that the Examiner understands prosecution of the above-identified application
23 cannot continue until the case is reinstated and no longer deemed abandoned.

24 **Request for Relief from Inconsistency**

25 Therefore, applicants' attorney respectfully requests that the Examiner withdraw the Final
26 Office Action, thus removing the inconsistency present in the prosecution history of the above-
27 identified application. In addition, at such time that applicants' Petition For Revival of an
28 Application For Patent Abandoned Unintentionally be granted, applicants respectfully request
29 that the Examiner issue a further Office Action (e.g., reissue the Final Office Action) so that
30 prosecution of the above-identified application can be continued in a consistent manner.

Should any further questions remain, the Examiner is invited to telephone applicant's attorney at the number listed below

Respectfully submitted,

Salem K. Mackenzie

**Sabrina K. MacIntyre
Registration No. 56,912**

SKM/RMA:elm

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at facsimile number 703-872-9306 on October 6, 2005.

Date: October 6, 2005

Kerry Cain

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